

## Alcohol and Tobacco Tax and Trade Bureau, Treasury

§ 45.11

by any appropriate TTB officer upon request.

[25 FR 4725, May 28, 1960. Redesignated at 40 FR 16835, Apr. 15, 1975, as amended by T.D. ATF-421, 64 FR 71926, Dec. 22, 1999]

### **PART 45—REMOVAL OF TOBACCO PRODUCTS AND CIGARETTE PAPERS AND TUBES, WITHOUT PAYMENT OF TAX, FOR USE OF THE UNITED STATES**

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#### **Subpart A—Scope of Regulations**

##### **§ 45.1 Removal of tobacco products, and cigarette papers and tubes, without payment of tax, for use of the United States.**

This part contains the regulations relating to the removal of tobacco products, and cigarette papers and tubes, without payment of tax, for use of the United States.

[T.D. 6871, 31 FR 57, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975, and amended by T.D. ATF-232, 51 FR 28090, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986]

#### **Subpart B—Definitions**

##### **§ 45.11 Meaning of terms.**

When used in this part and in forms prescribed under this part, the following terms shall have the meanings given in this section, unless the context clearly indicates otherwise. Words in the plural form shall include the singular, and vice versa, and words indicating the masculine gender shall include the feminine. The terms “includes” and “including” do not exclude things not listed which are in the same general class.

*Administrator.* The Administrator, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, Washington, DC.

*Appropriate TTB officer.* An officer or employee of the Alcohol and Tobacco Tax and Trade Bureau (TTB) authorized to perform any functions relating to the administration or enforcement of this part by TTB Order 1135.45, Delegation of the Administrator's Authorities in 27 CFR Part 45, Removal of Tobacco Products and Cigarette Papers and Tubes, Without Payment of Tax, for Use of the United States.

*Armed forces.* The Army, Navy (including the Marine Corps), Air Force, and Coast Guard.

*Charge of the United States.* A patient in a hospital or similar institution, or a Federal prisoner, if the hospital, institution, or prison is operated by a Federal agency and the support or care of such person results in a charge on, or an expense to, the United States Government.

*Chewing tobacco.* Any leaf tobacco that is not intended to be smoked.

*Cigar.* Any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco (other than any roll of tobacco which is a cigarette within the meaning of paragraph (2) of the definition for cigarette).

*Cigarette.* (1) Any roll of tobacco wrapped in paper or in any substance not containing tobacco, and

(2) Any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in paragraph (1) of this definition.

*Cigarette paper.* Paper, or any other material except tobacco, prepared for use as a cigarette wrapper.

*Cigarette tube.* Cigarette paper made into a hollow cylinder for use in making cigarettes.

*District directorAdministrator.* A district directorAdministrator of internal revenue.

*Factory.* The premises of a manufacturer of tobacco products or cigarette papers and tubes in which he carries on such business.

*Federal agency.* A department or agency of the United States Government, including the American National Red Cross, and the U.S. Soldiers Home, Washington, D.C.

*Large cigarettes.* Cigarettes weighing more than three pounds per thousand.

*Large cigars.* Cigars weighing more than three pounds per thousand.

*Manufacturer of cigarette papers and tubes.* Any person who manufactures cigarette paper, or makes up cigarette paper into tubes, except for his own personal use or consumption.

*Manufacturer of tobacco products.* Any person who manufactures cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco but does not include:

(1) A person who produces tobacco products solely for that person's own consumption or use; or

(2) A proprietor of a Customs bonded manufacturing warehouse with respect to the operation of such warehouse.

*Package.* The container in which tobacco products or cigarette papers or tubes are put up by the manufacturer and offered for sale or delivery to the consumer.

*Person.* An individual, partnership, association, company, corporation, estate, or trust.

*Pipe tobacco.* Any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco to be smoked in a pipe.

*Removal or remove.* The removal of tobacco products or cigarette papers or tubes from the factory.

*Roll-your-own tobacco.* Any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

*Sale price.* The price for which large cigars are sold by the manufacturer or importer, determined in accordance with §§ 40.22 or 41.39 and used in computation of the tax.

*Small cigarettes.* Cigarettes weighing not more than three pounds per thousand.

*Small cigars.* Cigars weighing not more than three pounds per thousand.

*Smokeless tobacco.* Any chewing tobacco or snuff.

*Snuff.* Any finely cut, ground, or powdered tobacco that is not intended to be smoked.

*This chapter.* Chapter I, title 26, Code of Federal Regulations.

*Tobacco products.* Cigars, cigarettes, smokeless tobacco, pipe tobacco, and roll-your-own tobacco.

*United States.* When used in a geographical sense shall include only the States and the District of Columbia.

*U.S.C.* The United States Code.

[T.D. ATF-48, 43 FR 13557, Mar. 31, 1978; 44 FR 55856, Sept. 28, 1979, as amended by T.D. ATF-232, 51 FR 28090, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-289, 54 FR 48842, Nov. 27, 1989; T.D. ATF-424, 64 FR 71933, Dec. 22, 1999; T.D. ATF-420, 64 FR 71945, Dec. 22, 1999; T.D. ATF-467, 66 FR 49532, Sept. 28, 2001; T.D. ATF-472, 67 FR 8880, Feb. 27, 2002; T.D. TTB-16, 69 FR 52423, Aug. 26, 2004; T.D. TTB-44, 71 FR 16954, Apr. 4, 2006]

### Subpart C—Administrative Provisions

#### § 45.21 Alternate methods or procedures.

A manufacturer, on specific approval by the appropriate TTB officer as provided in this section, may use an alternate method or procedure in lieu of a method or procedure specifically prescribed in this part. The appropriate TTB officer may approve an alternate method or procedure, subject to stated conditions, when he finds that:

(a) Good cause has been shown for the use of the alternate method or procedure.

(b) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure, and affords equivalent security to the revenue, and

(c) The alternate method or procedure will not be contrary to any provision of law, and will not result in an increase in cost to the Government or hinder the effective administration of this part.

No alternate method or procedure relating to the giving of any bond or to the assessment, payment, or collection of tax, shall be authorized under this section. Where a manufacturer desires to employ an alternate method or procedure, the manufacturer must submit a written application to the appropriate TTB officer. The application shall specifically describe the proposed alternate method or procedure, and shall set forth the reasons therefor. Alternate methods or procedures shall not be employed until the application has been approved by the appropriate TTB officer. The manufacturer shall, during the period of authorization of an alternate method or procedure,

comply with the terms of the approved application. Authorization for any alternate method or procedure may be withdrawn whenever in the judgment of the appropriate TTB officer the revenue is jeopardized or the effective administration of this part is hindered. The manufacturer shall retain, as part of his records, any authorization of the appropriate TTB officer under this section for three years following the close of the calendar year in which the operation under such authorization is concluded.

[Redesignated by T.D. ATF-469, 66 FR 56758, Nov. 13, 2001, as amended by T.D. ATF-472, 67 FR 8880, Feb. 27, 2002]

#### § 45.22 Emergency variations from requirements.

The appropriate TTB officer may approve methods of operation other than as specified in this part, where he finds that an emergency exists and the proposed variations from the specified requirements are necessary, and the proposed variations:

(a) Will afford the security and protection to the revenue intended by the prescribed specifications.

(b) Will not hinder the effective administration of this part, and

(c) Will not be contrary to any provision of law.

Variations from requirements granted under this section are conditioned on compliance with the procedures, conditions, and limitations set forth in the approval of the application. Failure to comply in good faith with such procedures, conditions, and limitations shall automatically terminate the authority for such variations and the manufacturer thereupon shall fully comply with the prescribed requirements of regulations from which the variations were authorized. Authority for any variations may be withdrawn whenever in the judgment of the appropriate TTB officer the revenue is jeopardized or the effective administration of this part is hindered by the continuation of such variation. Where a manufacturer desires to employ such variation, the manufacturer must submit a written application to the appropriate TTB officer. The application shall describe the proposed variations and set forth the reasons therefor. Variations shall